

Appl. No. 09/846,823
Amendment and Response to Office Action

Docket No. 85804-014501

REMARKS

The present application has been carefully reviewed in light of the Office Action dated June 15, 2005. Claims 1 to 97 are the pending claims being examined in the application, of which Claims 1, 34, 39, 59 and 93, the independent claims, are being amended. Reconsideration and further examination are respectfully requested.

Initially, Applicants' undersigned representative wishes to thank the Examiner for the courtesies extended during the September 14, 2005 telephone interview. During the interview, differences between Claims 1 and 34 and U.S. Patent No. 6,438,578 (Hosken) were discussed.

As is described in more detail below, however, the discussion of Hosken is rendered moot in light of the fact that there has been no showing that Hosken is prior art, and Hosken is not prior art.

Turning first to 35 U.S.C. § 112 rejections raised in the Office Action, Claims 1 to 33 and 59 to 97 are rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description and enablement requirements.

Without conceding the correctness of the rejection, Claims 1, 39 and 59 are being amended herein. Applicants reserve the right to reintroduce the subject matter cancelled from these claims.

With respect to the amendments made to Claims 1, 39 and 59, Applicants submit that the originally-filed specification, including the drawings and claims, provide more than adequate support for the recited feature. More particularly, reference is made to, inter alia, paragraph 106 and paragraph 121 (pages 27 and 28 and page 30, respectively, of the originally-filed Application), which describe that a user log stores information corresponding to user behavior. Such user behavior may include, for example, selection of a track, repeating a track, aborting or skipping a track, etc. Referring to paragraph 205, according to one embodiment, the score of the user's log with respect to a query is the sum across all query items (e.g., a track) multiplied by

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the user's log weight. Paragraphs 225 to 236 provide examples of user log weights, which are based on occurrence of items in user logs.

Based at least on the foregoing discussion, it should be apparent that the Application as originally filed provides more than adequate support for the amendments made herein.

Claims 1, 4 to 27, 32, 33, 39, 42 to 59, 62 to 85, 91 and 92 are rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,438,579 (Hosken), and Claims 2, 3, 28 to 31, 34 to 38, 40, 41, 60, 61, 86 to 90 and 93 to 97 are rejected under 35 U.S.C. § 103(a) over Hosken and U.S. Patent No. 6,438,579 (Lazarus).

The present application was filed on April 30, 2001 and claims the benefit of U.S. Provisional Application No. 60/201,622 filed on May 3, 2000. The claims of the present application are fully supported by the description provided in U.S. Provisional Application No. 60/201,622. Reference is made to the section entitled "Analysis of Play Logs and Libraries" commencing at page 216, pages 243 to 244, and to pages 301 to 304, of U.S. Provisional Application No. 60/201,622, for example.

Hosken was filed on July 14, 2000, which is after the May 3, 2000 effective filing date of the present application. While Hosken claims the benefit of U.S. Provisional Application No. 60/144,377 (Hosken '377), in order for Hosken to be considered prior art it is necessary to rely on the filing date of the provisional application, which requires that a showing be made to establish that the provisional application provides full support, in compliance with 35 U.S.C. § 112, for the subject matter of Hosken relied-upon. See MPEP § 2136.03 (III).

Since there has been no showing that Hosken is prior art, and since Hosken is not prior art, the rejection based on Hosken should be withdrawn. In addition, should the Examiner assert Hosken as prior art in a new ground for rejecting the claims, such a rejection should be made non-final and should include a showing, in accordance with 35 U.S.C. § 112, first paragraph, that the subject matter of Hosken relied upon in making the rejection is fully supported by the description found in Hosken '377.

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While it is not applied against the claims of the present invention, Applicants submit that Hosken '337 fails to teach or to suggest each and every one of the limitations of Claim 1, particularly as regards scoring user logs, the scoring being responsive to a degree of occurrence of the at least one query item identifier in the user logs, so as to generate user logs score based exclusively on detected user item selections and the at least one query item.

Hosken '377 describes a system for generating a music recommendation using predefined relationships established for content (i.e., artists, genres, and albums) and user-cluster relationships (i.e., clusters of users) to generate a combined content and collaborative recommendation.

The results of the content recommendation consist of content items (i.e., artists, genres and albums) that are determined to be related based on predefined content relationships. Referring to Hosken '377 commencing at page 9, line 9, a content recommendation is generated by searching artists, artist association, album and genre tables to identify artists, albums and genres that are related to entries in the user's favorites table. Nothing in the description of generating a content recommendation in Hosken '377 teaches or suggests scoring user logs, the scoring being responsive to a degree of occurrence of the at least one query item identifier in the user logs, so as to generate user logs score based exclusively on detected user item selections and the at least one query item.

Hosken '377 then uses favorites, user profile and cluster tables to generate a collaborative recommendation. More particularly, the cluster table associates users and clusters. One such cluster identified in Hosken '377 is a "Dance" cluster, to which a number of users belong. The system identifies the cluster to which the user is most closely aligned, and then searches each user profile for users that belong to the identified cluster, i.e., the Dance cluster. Items contained in the user profiles searched that are not in the requesting user's profile are included in the collaborative results.

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Hosken '377 determines correlations in generating a collaborative recommendation. Although Hosken '377 does not provide any description of the process used to determine a correlation, Hosken '377 indicates that a correlation is performed using a user's favorites input table and a cluster table, and that a correlation is performed using two user profiles. However, both of the correlations performed in Hosken '377 involve tables which are not the same as a user log, which contains identifiers corresponding to detected user item selections. In addition, the correlations performed in Hosken '377 are not based exclusively on detected user item selections and the at least one query item.

As described above, a cluster table contains details about groups to which a user can belong. As described in Hosken '377 at page 10, lines 13 and 14, a cluster table contains predefined clusters of users. At page 6, lines 7 to 10, Hosken '377 indicates that a user profile contains identifying information about music items linked to a user. As is described at page 11, lines 4 to 9 of Hosken '377, such identifying information includes one or more clusters to which the user belongs, which as described commencing at page 10, line 13, are determined using the cluster table.

Accordingly, neither a cluster table nor a user profile can be said to be the same as a user log which contains identifiers corresponding to detected user item selections. Neither correlation performed in Hosken '377 can be said to be based exclusively on detected user item selections and the at least one query item. Nothing in Hosken '377 can be said to be the same as scoring a user log, which contains identifiers corresponding to detected user item selections, the scoring being responsive to a degree of occurrence of at least one query item identifier in the user logs, so as to generate user logs score based exclusively on detected user item selections and the at least one query item.

Claim 1 is therefore believed to be patentable over Hosken '377. Claims 39 and 59 are also believed to be patentable over Hosken '377 for at least the same reasons.

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Turning to independent Claims 34 and 93, among the features recited therein, is a feature of generating, based on a determined log likelihood ratio, a representation of a relationship between a first item and a second item based on implicit user behavior. Although it has not been applied against the claims, in view of the above discussion, Hosken '377 fails to show at least this feature of the claims.

Lazarus has been reviewed and nothing in the cited portions of Lazarus remedies the deficiencies noted above with respect to Hosken '377. Accordingly, Claims 34 and 93 are believed to be in condition for allowance.

The other claims are each dependent from the independent claims discussed above and are therefore believed patentable for at least the same reasons. Because each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

In view of the foregoing, the entire application is believed to be in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

The Applicant respectfully requests that a timely Notice of Allowance therefore be issued in this case. Should matters remain which the Examiner believes could be resolved in a further telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney.

In this regard, Applicant's undersigned attorney may be reached by phone in California (Pacific Standard Time) at (714) 708-6500. All correspondence should continue to be directed to the below-listed address.

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The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-2638. Please ensure that the Attorney Docket Number is referred when charging any payments or credits for this case.

Respectfully submitted,

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